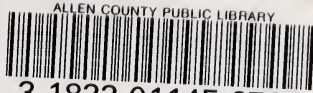


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CHAPTER IX.

Sheep Commons and the Proprietary.

In the History of Land Titles of Massachusetts, written by James Sullivan in 1807, is the statement that Nantucket titles were obtained by purchase from the Indians, thereby suggesting that there was nothing else worthy of mention. Macy dismisses the subject with the remark that a description of the land system would interest only a few, and so he passes to more edifying matters. What, therefore, no person has attempted to accomplish is the object of this work; and it will be discovered that this curious system and its development in the Island community are full of historical interest.

In the early period of our colonial history large tracts of land, in various parts of the Province, were from time to time granted by the Government to individuals, who organized themselves under the law into a Proprietary; kept records of their proceedings, managed and divided the land, and disposed of the same by a majority vote duly recorded in their books of record. When the locality had become sufficiently settled it was incorporated into a town. Such was the origin of all towns in this Commonwealth.

So it appears that a Proprietary is a collection of individuals who own and propose to hold in common some tract of land or wharf, organized under the law, having officers and by-laws. Their proceedings were conducted like corporation meetings, yet Proprietaries were never incorporated. Their business was transacted very similar to the New England town meeting, to which they were

closely related. The presiding officer was the "moderator" and the secretary was "clerk," and he was usually, if convenient, the local Register of Deeds, and in his office the Books of Record were generally kept.

It is an interesting story to read how this custom of our Teutonic ancestors in the German forests crossed two oceans and is found with its constant companion — the Town Meeting, in New England, exhibiting the same features described by Tacitus as being in full development twenty centuries ago in the wilds of Germany. Every town started as a Proprietary, and the settlers of Nantucket, who had lived several years in Massachusetts Bay Colony, were well acquainted with its details and objects.

According to the usual plan when a Proprietary was formed, the first step was to provide house lots or homesteads. These were of such extent as the situation permitted, but were clustered together to form a village. In this the Proprietary differed widely from the Plantations of the southern colonies, where there were no towns or grouping of house lots. The village section at Nantucket has been already shown to have originated about Capaum harbor and southward. As land was abundant and cheap, the settlers decided to allow tracts one thousand feet square to each full share owner, and to half share men a tract half as large. The large tracts comprised about twenty acres.

Having the house lots or homesteads in one locality, it was possible to hold, control and manage the remaining land for agriculture or grazing. In two respects this was an advantage. The early settlers were not wealthy and could not own large tracts of land separate from each other. Grazing required much room for herds to wander about. Then, if the land were owned by single individuals, each could compel his neighbor to maintain fences.

This would be a hardship and expense, and would interrupt the free movement of sheep where there was food and water. Separate ownership might not only obstruct but prevent successful sheep raising. But holding the land undivided and in common exactly accomplished the desired result.

Membership in a Proprietary consisted only in owning an interest in the common land. Hence, if one sold his interest he ceased to be, and his grantee thereby became, a Proprietor. The Nantucket Proprietary started in fact when the purchasers received the deed from Mayhew, July 2d, 1659, but the contract for purchase must have been made some months earlier. In the Record Book is an account of a meeting of the Purchasers in Salisbury at the house of Benjamin Kimball, in February, 1659. The first association comprised ten men, and at this meeting an order was adopted allowing each of the ten to select a partner who should be admitted into the company, making the whole number twenty. They then "determined and concluded that no man whatsoever shall purchase any land of any of the Indians upon the sd yland for his own or other private or pticular use. but whatsoever purchase shall be made shall be for ye generall accompt of ye twenty owners or purchasers. And whatsoever pson shall purchase any land upon any other accompt it shall be accompted voyd and null except what is done by licence from ye sd owners or purchasers."

This precautionary measure had two purposes. Already it had been discovered that the red men were eager to sign deeds of land for some trifling consideration as long as a part consisted of liquor. The order was intended to prevent any such advantage being taken by enterprising speculators.

About twenty years before a Salem minister named Roger Williams promulgated the dangerous doctrine that

land tenure in New England based on grants from the English crown were unsound and void; that the right of discovery was not equal to the right of possession which rested in the Indians. He claimed, therefore, that no title was valid which was not founded on an Indian deed. The subject was then and always has been full of perplexity. Mayhew's title was from the English government. If some other person should acquire title from the Sachems there would arise a conflict as to which had the best claim. The only way to avoid this confusion was to forbid any purchase from the Indians except for the whole body of owners. At a later meeting in Salisbury they declared that this order "shall stand inviolable and unalterable as necessary to the well being of the place and the contrary tends to ye confusion and ruine of the whole and the subverting of the rule and orders already agreed upon and the depriving of the owners of their just rights and interests." This policy was strictly followed by the English until every foot of land on the island had been conveyed by the red men to the Proprietary.

The third vote related to securing tradesmen and mechanics already mentioned.

At the second meeting Tristram Coffin, Thomas Macy, Edward Starbuck, Thomas Barnard and Peter ffoulger of Marthas Vineyard were empowered to measure and lay out convenient house lots, and "whatsoever shall be done by them or any three of them, Peter ffoulger being one, shall be accompted legal and valid."

The reason for selecting these men was that they had been to Nantucket and were acquainted with the locality.

Then followed over two years during which no action has been recorded. There is evidence that some of the purchasers had revisited the island and it may be inferred that some kind of building was in progress preparatory to the arrival of the settlers. A record of a meeting at Salis-

bury, May 10, 1661, indicates that the same five men were to measure and lay out all the rest of the lands on the island; to determine what lands shall remain common; and Mayhew, Richard Swain and John Bishop or what other owners that may be on Nantucket to lay out the town. They provided that Coffin, Starbuck, Macy and Swain should have the house lots already chosen and the rest should select by casting lots.

Two sets of records were to be kept, those in Salisbury by Robert Pyke and at Nantucket by Thomas Macy.

July 15, 1661, the record begins, "at a meeting on Nantucket" it was agreed that each house lot "shall contain sixty rods square to a whole share."

Although a technical proprietary existed as soon as the Mayhew deed of July 2, 1659, was delivered, yet the owners were always designated as "purchasers" or "freeholders." This name was retained until the issuance of the Dongan Patent in 1687, and then for some years they were styled "freeholders and comonalty of the town of Sherborn."* The title "Proprietors of the common and undivided lands of the Island of Nantucket" was adopted after 1700.

As elsewhere in New England, the term "Proprietors" seems to have been very popular at Nantucket. The name of the Orthodox church is the Proprietors of the the First Congregational Meeting House, and the Unitarians have the same name except theirs is the Second. Members of the Atheneum Corporation are Proprietors.

To understand the records of the land owners the peculiar situation must be kept in mind. Until 1692 Nantucket was part of New York Colony. When the island was settled the Proprietors decreed that only land owners could be citizens. So the only persons who could vote in town

*Copies of the Lovelace and Dongan Patents may be found in the Introduction of the Genealogy of the Macy Family.

meeting were the same individuals that constituted the Proprietary, and in the meetings and records the distinction between the town as a municipal body and the Proprietors as a private association was often overlooked. Thus at meetings of the Freeholders business of a municipal character was transacted, and at meetings of the town votes were passed relating to common land; and in some meetings both were considered. As long as the original definition of citizenship continued no harm resulted. But when Nantucket was annexed to Massachusetts in 1692 the law of the Province respecting citizenship became operative on the island, and as a result some men who were not freeholders became voters. So the body known as Proprietors was no longer identical with the voters of the town. For a few years the records of both were kept in the same books, but in 1716 the situation required a departure from the ancient method. From December of that year the Proprietary and the town held their meetings and kept their records separate from each other.

In all business of the Nantucket Proprietors there has been exhibited an equitable method of dealing with each other which might be traced to a spirit of benevolence among the land owners which did not appear in other relations. It was probably found to be the only safe rule in such a democratic body to treat all members alike and fairly, and allow none to obtain any advantage not shared by all.

The Proprietors exercised a wide jurisdiction over affairs on the island, and controlled in some matters now managed only by the town or state. In 1676 Thomas Macy and Peter Coffin were licensed to take fish with nets in Mattaket creek. Joseph Coffin was granted permission to build Straight wharf in 1716. In 1758 they paid a bounty of eight pence for crows. At the same period they ordered that no tent or booth be erected near the shearing

pens under penalty of thirty shillings. They refused to build a public market near the wharf or allow any one to do so. In 1754 they voted to allow John Coffin and his associates, for one year, to dig on Siasconset Beach, and have what they found.

As soon as they settled the island the land owners had to adopt names for localities. Only a few are of English derivation. Northam, where Tristram Coffin lived, Uppertown and Middletown never became permanent. Newtown still applies to an indefinite region south of Main street. Wheeler's Creek is near the Asylum, but why thus named cannot be discovered. Most of the names are of Indian origin, but many have been changed from the first form recorded and some beyond recognition. Muskeikat, Mattaket, Tuckernucket, Sasagacha, Nopadea, Mattaquecham, Sauckatuck, Myoakes, Aquitnet suggest the forms now in use. Monomoy, Shimmo, Squam, and Siasconset remain unchanged. Coittu and Cowatue indicate an attempt to encompass an Indian sound by English letters. Wesquo or Wescoe meant "White Rock," and denoted the location of the present town. It is said that the quartz boulder which gave the name was situated near the Masonic building. Paquomoquat, Pawqumok, and several other similar forms were in use before 1700. The modern Consue was first Quansue. The most singular departure from the original is the modern Polpis. The first name was Poatpes or Portpace, both of which were in use as late as the Revolutionary war. Subsequently the derivative Podpis was adopted. Ewer's map in 1869 uses this form. Polpis cannot be justified on any ground.

Bochochico denotes the region near the Atheneum. Professor Henry Mitchell suggested that this name, possibly Spanish, was applied to that locality because it meant "little river," and there was a creek that extended up into what is now Pearl street.

Only three streams on the island provided power enough to turn a water wheel ; the outlet from the Lily, then called Wescoe Pond, which extended along Chester street to the harbor ; the Mill Brook, which flows from the swamp to the north, near the Hosier farm to Hummock Pond ; and the stream which was called Stony Brook and empties into Podpis Harbor. Neither of these furnished any extensive power, because there were no rapids or falls. But the settlers were obliged to utilize these or resort to horse or wind power.

The first necessity was a grist mill. Fulling and carding mills were introduced later. No saw mill is mentioned in the records, probably because there was no timber to demand such an enterprise.

In the first years after settling on the island the brook from Wesco Pond was considered. In October, 1665, the Proprietary voted to build a horse mill and John Bishop was to be the builder. The next spring this plan was abandoned and a water mill was to be constructed at Wesco Pond. This stream in modern times has scarcely enough fall to carry off the water of the pond and during many months is dry. Even if the pond were raised by a dam to the highest level, the strength of the head of water would be of limited value. The tradition and description in the records indicate that the mill was between Center and North Water streets on Chester.

June 10, 1667, Peter Folger was employed to keep the mill and receive as toll two quarts to the bushel and an extra quart from strangers.

William Bunker agreed in 1672 to build a new mill and to receive forty pounds and half a share of land. For some reason he neglected or failed to carry out the contract, and Tristram Coffin undertook the job. But Coffin in September, 1673, had not done anything, and the town appointed Richard and John Gardner and Thomas Macy

to build a tide mill upon the creek "behither Wesco," somewhere near the old mill. The cost was to be fifty pounds in money and half a share of land. They placed the mill on the brook, probably near the corner of Center street, and 1676 the town granted the old mill to John Gardner and John Swain that they might equip it as a fulling mill. The new mill was paid from a public tax. This was the last enterprise undertaken by the town or Proprietors.

The stream at Poatpes was never used by the Proprietary but for some years they exercised a control over it. It was granted in 1708 to Benjamin Wyers and later to Benjamin Swain to set up a fulling mill, but he failed to supply the town's needs, and in 1717 it was granted for the same purpose to Silvanus Hussey and Stephen Coffin, Jr. In 1721 it was granted to Hussey alone "as long as he shall maintain a dam and supply the town needs." Two years later it was again granted to Benjamin Swain. In 1746 the Proprietors granted the same stream at Poatpes to John Swain, "England," and Samuel Moxey, "to full, press, shear and dye cloth."

The Wescoe brook in 1722 was granted to Eleazer Folger "to damm and set up a fulling mill."

It was probably found that the power furnished by the two brooks was strong enough only for a weaving mill, and so they were abandoned for grist mill purposes, and wind mills thereafter did the grinding. In 1717, near Daniel Russell's, was a wind mill and others are mentioned later.

For many years no reference appears to have been made to a fulling mill. In 1768 a committee of the Proprietors was appointed to make an arrangement about some clothier carrying on a fulling mill. Later the committee was ordered to see what agreement could be made with James Skiff to full cloth and the cost of fitting up the mill.

Later a committee was directed to erect a fulling mill at Poatpes. It seems doubtful if any action was taken, because in 1770 the Proprietors voted to see if a mill could be operated by a stream at Showaukemo, which is some distance nearer town. Some complaint was made about flowing land in the latter locality, and so the owners who suffered damage were given the same amount of land where used to be the old pond at Poatpes. 1772 John Jessop was the miller and operated more than one mill. William Nichol was the miller. 1741, Tristram Starbuck and Zaccheus Macy were authorized to set up a fulling mill on the Mill Brook near Hummock Pond.

Wind mills were in existence, probably on Mill Hill, in 1747. The present mill is said to have been built in 1746.

In 1776 there were three wind mills, the westernmost being Samuel Bunker's.

Quite likely the old Indian trails were adopted as roads. Thomas Coleman and Richard Swain were chosen in 1664 surveyors of highways. At a meeting of the inhabitants Nov. 20, 1669, the Selectmen or Prudential Men were empowered to lay out highways according to their discretion. If under this authority any ways were laid out no record was preserved, and the only information must be gathered from contemporary deeds.

The earliest way is that now called Chester street, which extended from the Homestead section east to the Great Harbor. In 1667 this road was used from Cappamet to the mill. William Gayer built his house between Center and North Water street in 1683, and the present Center street was then a cart way. In 1665 Crooked or Long Lane, which now passes the farm of William H. H. Smith, was in use. Other ways will be mentioned in the descriptions of land divisions. Many streets were opened by owners and adopted by the public by actual use. The

unfenced tracts on the island were crossed by travellers at will, and roads to outlying points were changing from year to year. Recorded layouts were not frequent before 1846.

The difficulty in determining how to apportion pasturage among the land owners led to much perplexity.

In September, 1672, each whole share man was allowed to pasture 23 sheep. In 1689, when more land had been purchased from the Indians, each share was entitled to two horses, forty cows or one hundred sheep. In 1706 the proportion was one horse, two cows or sixteen sheep. There was continual controversy about the number of sheep pastured. The Proprietors asserted that the island was overstocked and that men owning no land were pasturing sheep on the commons. Some men were determined to obtain all pasturage possible. As a result the Proprietors issued orders and mandates to counteract this infringement. The end of the contest will be described hereafter in the "Sheep War."

An incident to the pasturage business was the necessity of fences to keep the cattle and sheep of the English from lands not yet sold by the Indians. The first boundaries were the Hummock Pond and a line drawn from the mouth of the Mill Brook to the creek at the Nantucket Harbor. For keeping cattle from trespassing a ditch was dug from Hummock Pond to the ocean; but on the long line between the pond and Wheeler's Creek at Monomoy a fence had to be built. Later, when the English bought from the Indians land south and east of the town, gates were cut through the fence where roads extended. On Orange street was the Newton gate and further west were other gates or bars. This fence was maintained after 1800, in order that sheep on the commons could be kept from the town.

Whether Nantucket was heavily wooded when the Eng-

lish came is no concern of this work. Frequent references to wood and trees appear in the records, but how large they were can only be inferred from collateral facts. In 1663 an order was passed that "no man shall cut any timber on Cowatu except for building houses." In 1676 they forbid cutting green trees for post rails or for the bark. In 1685 any owner could cut pines for whale boats. The wood question was confined to Coatue, and orders and decrees were frequent about "sedars and pines."

Whatever wood there may have been on this point, no saw mill was ever established on the island in early times.

Each owner at first had a homestead of over twenty acres. Then the grass meadows under the cliff from the Great Spring around to Monomoy were assigned to the Proprietors, one acre to each. In like manner the Pocomo meadows were divided. As the number of families increased, sons married and built houses on the ancestral home lot, but the demand for more land soon became apparent. There were scattered over the island numerous small areas of fertile land, too small to divide and yet capable of yielding an advantageous crop. In 1663 Tristram Coffin, John Bishop, Robert Barnard and Peter Folger were directed to lay out corn fields. In 1669 each owner was directed to sow on the common land a bushel of grass seed. In 1672 a harrow was purchased for the public use. The Proprietors' committee each year designated where the planting land was to be used. These were selected in localities where the land was fertile and well watered. No record was made of the localities used in this transient way.

In measuring and defining lots of land a surveyor was needed. This was one of the accomplishments of Peter Folger, and when he died in 1680 William Worth and William Gayer engaged in this pursuit. It is easy to infer that these men were mariners and that navigation was the

basis of their knowledge of surveying. When a course is stated "south southwest $\frac{1}{2}$ west," it is clear that a mariner's compass was the instrument used. It would be erroneous to say that these men were successful in this occupation. They referred tracts of land to such fleeting boundaries as "a house," "a tree," "a swamp," and as will hereafter appear in sixty years their poor work had caused great trouble and confusion. It is not possible to identify, except approximately, any layouts before 1700, and not every one before 1800.

Most of the recorded plans refer to no fixed object with which to connect them. Many of the plans will not "close up," there being errors in courses or distances.

As fast as deeds were received from the Indians the Proprietors arranged for extending the house lots. The shore from Pocomo to Wheeler's Creek was among the early purchases from the Sachems, and Stephen Hussey built a house at Monomoy. John Swain's confirmation grant of the neck at Podpis was dated 1684, but he may have built there earlier. Ben Abel gave a deed of Southeast Quarter in 1742. Siasconset Path is mentioned in 1725, and the section was used for pasture. The first grant at Siasconset was made to Abel Gardner in 1747. The land north of the Gulley was laid out in strips eighteen rods east and west and three rods wide in 1758, and at this date Siasconset became a fishing village. A few houses were built by the English at Quidnet for fishing purposes before 1700.

The first mention of a wharf is dated 1716, when Joseph Coffin is allowed to build a "wharf at ye old landing forty feet wide, and it shall be his privilege so long as he keeps it in good repair." Presumably he complied with this requirement, because the grant seems to have been permanent. Only by inference is it possible to determine when the other wharves were built. The next recorded refer-

ence is in November, 1774, when land is granted on each side of the South, Old or Straight, North, and New North wharves. What few facts were recorded lead to the inference that while the Old wharf might have been built before 1720, the other three were built not much before 1774. The Commercial wharf, now the southernmost, was built after 1800.

The owners of these four wharves will serve to indicate the persons who were prominent in business affairs in 1774. Their names and shares were as follows :

South Wharf.

Joseph Rotch	45	Seth Macy	97
Zaccheus Macy	602	Reuben Swain	78
Paul Bunker	25	Josiah Barker	301
Richard Chadwick	94	Jonathan Burnell	216
Tristram Starbuck	255	Johh Way's heirs	40
Nathaniel Macy	61	Ebenezer Calef, Esq.	327
John Coffin	371	Zehaneah Coffin	98
Richard Mitchell	405	Josiah Coffin	327

3,050 shares.

Straight Wharf.

At the foot of Main Street.

Nathaniel Macy	79	Caleb Bunker	99
Jethro Coleman	45	George Hussey	24
Zephaniah Coffin	396	Reuben Gardner & Co.	82
Seth Macy	97	William Swain, 2d	18
Josiah Barker	452	Edward Starbuck	123
Thomas Starbuck	247	Obed Hussey	70
William Starbuck heirs	114	Daniel Gardner	180
Thomas Gardner	112	Jethro Gardner heirs	105
Grafton Gardner	128	William Gardner & Co.	135
Samuel Starbuck	47	Robert Gardner	55

Robert Barnard heirs	47	Enoch Gardner	135
Caleb Macy	189	David Coffin	142
Tristram Swain	9	Christopher Starbuck	12
Abishai Folger	18	Benjamin Barney	100
Richard Macy	187	Seth Swain heirs	19
Reuben Swain	127	John Macy	170
Joseph Macy heirs	90	Francis Macy	98
Francis Brown & Co.	198	Jonathan Macy	124
Thomas Jenkins & Co.	9	William Rotch	549

4,831 shares.

Old North Wharf.

Reuben Swain	21	Zephaniah Coffin	226
Jonathan Burnell	142	Thomas Starbuck	111
John Ways heirs	98	William Starbuck heirs	50
Thomas Gardner	194	Grafton Gardner	224
Seth Macy	48	Samuel Starbuck	18
William Hussey	84	William Coffin	120
Robert Barnard heirs	43	Margaret Bunker	99
Timothy Folger	9	George Bunker	84
Bethuel Gardner	222	Caleb Macy	161
Tristram Swain	9	Abishai Folger	82
Timothy Coleman & Co.	25	Caleb Bunker	82
Jonathan & Joseph Swain	112	Joseph Hussey	90
Charles & Timothy Swain	206	Christopher Hussey	60
George Hussey	21	Nathaniel Hussey heirs	71
Batchelor Hussey	62	Richard Coffin	51
Richard Coffin & Co.	190	Reuben Gardner	87
Jonathan Coffin heirs	280		

3,344 shares.

New North Wharf.

Present Steamboat Wharf.

Zaccheus Macy	150	Ebenezer Calef	22
Paul Bunker	9	Alexander Gardner	138

Reuben Swain	78	Grafton Gardner	160
Samuel Starbuck	36	William Hussey	8
Caleb Macy	66	George Hussey	15
Batchelor Hussey	22	Richard Coffin	17
Thomas Jenkins	38	Shubael Barnard	81
Daniel Folger	60	Barzillai Folger	60
Benjamin Folger	60	David Joy	22
George Folger	8	Jethro Hussey	180
Stephen Paddock	8	Richard Mitchell, Jr.	94
Benjamin Coffin	42	Elheezer Calef	141

1,515 shares.

The term "sheep commons" is regarded as importing some technical meaning not readily understood, while the fact is that it is easily comprehended. During the years from 1720 to 1740 in the deeds occur the expressions "horse commons" and "cow commons." They are merely variations of the "sheep commons" when applied to horses and cows.

"Sheep's common" is first mentioned about 1716 in a deed from Eleazer Folger. It meant pasturage for one sheep on the common and undivided lands, and was thus frequently described. Thus a person owning that right could turn out one sheep to roam over the commons. This term came ultimately to denote a fractional part of the common land. The Proprietors seem to have estimated that an acre of common land would maintain one sheep. The survey of the land held in common indicated 19,440 acres, so that number of sheep could be pastured on the common land. A "sheep's common" meant the right to pasture one sheep, and also it was $\frac{1}{19440}$ of the common land. This term therefore indicated how much in the common land a man owned and how many sheep he could pasture.

The reason for adopting this singular designation is in-

teresting. The Proprietors of common land in Massachusetts Bay and Plymouth Colony had only one object, which was to divide the land among the owners as speedily as it could conveniently be surveyed and investigated. In most cases the entire land was divided before the year 1700. Only a few Proprietaries existed in 1800, and in 1900 that in Nantucket was the only one remaining in the state. At Nantucket a widely different purpose animated the settlers. The thousand hills and vales were to remain common and undivided as one vast pasture over which sheep could roam in search of food and water. Grazing was to be the permanent use of this extensive area. Ultimate division was never contemplated.

The original owners comprised twenty Proprietors who owned one share each and fourteen who owned each half a share. The island common land was held in twenty-seven shares. The families were large and these shares in a few generations would be subdivided into very small fractions. Thus a man who owned a share or $\frac{1}{27}$ of the common land might have ten children, and each would own $\frac{1}{270}$. The next generation might own $\frac{1}{2700}$ each. A division of one share as a unit would in a century produce interests denoted by fractions with large denominators, such a notation was exceedingly cumbrous and the only escape was to adopt a unit much smaller than a share. The "sheep commons" exactly met the requirement. If a man owned $\frac{1}{27}$ of a share, its exact equivalent was 27 sheep commons and the latter beside being less awkward served the two useful purposes already noticed.

The term came into general use just before the Revolution and has remained ever since.

Some owners of common land did not pasture thereon any sheep and others not as many as their sheep commons allowed while there were always some who main-

tained more than their interests justified. Attempts were made by the Proprietors to regulate this trespass but without success. Finally in 1845 the Proprietors resorted to the law to enforce their rights. They persuaded Thomas B. Field, Elisha M. Hinckley, Joseph Vincent, George and Oliver W. Easton, field drivers to impound sheep illegally at large on the commons. At one time they had impounded 2000 sheep. Eminent lawyers were employed and numerous lawsuits ensued. It was known as the "Sheep War." In some cases the sheep owners and in others the field drivers were successful. But a force was at work which settled the controversy beyond appeal. Nantucket could no longer compete with the grazing districts of Maine, New Hampshire, Vermont and the West, and when the lawsuits had closed the sheep industry on the island suddenly ended. Sheep marking and shearing were two interesting incidents of this occupation.

In June, 1665, the Proprietors ordered that each man should adopt an ear mark, and they were recorded. A severe penalty was named if one of these marks was altered. The process of marking was in charge of a committee. These marks consisted in cutting off certain parts of the ears or making slots or holes therein. The designs were few in number, but by changing their position on one or both ears or by combination an endless variety could be formed.

The first mention of shearing is dated 1676. The time finally adopted was the Monday nearest the 20th of June. Extensive areas near the ponds were fenced and called shear-pens. The sheep were driven into these enclosures from every part of the island. Here they were washed and identified by the owners. Then came shearing day which resembled the modern county fair. The last shearing occurred in 1847, and now only the old men know the location of the pens.

In all divisions of land before 1800 the plan followed required that each owner should receive at one and the same time his proportion. Thus when the Fish lots were laid out every owner had a part of the same value proportionately as every other part. But in the common and undivided lands outside, each still held his ownership.

The plan was modified in 1815 and reference will be made thereto hereafter.

Having allotted to each Proprietor a house lot and meadows in 1661 to 1665 no other division was made until 1678 when Wesco acre lots were set off. This division was bounded south by Liberty; east by Federal; west by North Liberty; and north by Broad street and its line extended west. The present corner of Federal and Main streets is between twenty and thirty feet north of its original location, and in 1678 was on a line with the north line of Liberty street. But after the 1846 fire the town widened the square by setting back the buildings between Center and Federal streets. At the time of this division several streets were laid out: Center street from Liberty to Broad; Liberty the entire length of the division; Federal along the east side. Broad street is not mentioned, but was then probably in existence. Center street further north was only a cart path. Pearl street was established and separated the share of Peter Coffin on the north from the Swain share on the south. The narrow lane which now extends along the north side of the Methodist church was a later creation. This lane extended east of Center to Federal. The present engine house is across its location. In order that each owner might have a frontage on the salt water which came up to Federal street, the shares were made two rods wide and eighty rods long in form not unlike a yard stick to which they have been compared. The space between Broad and Liberty streets allowed twenty such strips and one was allotted to each of

the first twenty Proprietors in the following order beginning at the north and proceeding south :

<i>First Squadron</i> —John Bishop,	share 1
Wm. Pille,	“ 2
Steven Greenleaf,	“ 3
Thomas Coleman,	“ 4

<i>Second Squadron</i> —Robert Pike,	share 1
Nathaniel Barnard,	“ 2
Christopher Hussey,	“ 3
John Smith,	“ 4

<i>Third Squadron</i> —Tristram Coffin,	share 1
Tristram Coffin, Jr.,	“ 2
James Coffin,	“ 3
Peter Coffin,	“ 4

Fourth Squadron—Four lots to John and Richard Swain.

<i>Fifth Squadron</i> —Thomas Mayhew,	share 1
Nathaniel Barnard,	“ 2
Nathaniel Starbuck,	“ 3
Edward Starbuck,	“ 4

The other owners were either given land elsewhere or had already received their proportion. The tract between Center and North Water streets from Broad to Ash lane was assigned to Thomas Macy, and the lot north to Ash street to William Worth ; the half acre next north to Step lane to John Gardner, and the rest to Chester street was set off to Richard Gardner, Jr.

Richard Gardner, Senior, was omitted in the Wesco acre division because his grant on Academy Hill included his proportion. The Folgers received their part later on Main street.

No other land was divided for nearly forty years. House lots and meadows had been set off in sufficient amounts for one generation.

When Wesco lots were divided, the inhabitants supposed that the center of the population would be near the No Bottom Pond. Some were expected to settle at Wesco. Edward Cartwright bought land in 1678 at Pocomo. The Swains were preparing to move to Podpis. The Husseys lived at Monomoy. Richard and John Gardner lived at North shore and were the easternmost residents at Wesco. A few moved their homes from Capaum to Wesco, but no important change took place before 1700. Capaum Harbor was the landing place, and town meetings were held in Edward Starbuck's house. But at some date after 1700 an event occurred which caused the Islanders to abandon Capaum for Wesco as a residential section. Capaum Harbor was open in 1698 according to the testimony of a Quaker missionary. But in 1722 it had been closed by a storm, and a map describes it as a pond. The land records about 1717 show a marked activity in buying and selling land at Wesco, and divisions were laid out on the Harbor south of Main street. It seems probable that the closing of Capaum Harbor occurred at this time.

At the south of Main street to the line separating the English from the Indians, the land was common and undivided, and as new house lots were needed, the inhabitants turned their attention to this region.

Two tracts seemed desirable. One on Wesco Hill or Quaaty Bank, where the Unitarian church stands, and the other across the Harbor at Shimmo, and both were divided simultaneously in August 1717.

From the fact that Shimmo was never inclosed and occupied, no mark of identification exists whereby this tract can be located. It was situated somewhere east of the

Monomoy ; was rectangular, and 167 rods north and south and 100 rods east and west. It began at a point 21 rods southwest from the southwest corner of a fresh pond which is westward of Thomas Bunker's house. The 27 shares were set off to the persons according to the schedule hereafter inserted. This situation is an excellent illustration of the prevailing difficulty concerning land titles at Nantucket which will be described at length hereafter. The owners of the four principal divisions in the present town are given in a schedule hereafter.

An examination of this schedule shows one significant change which had taken place since the division of Wesco lots. In the former division each owner had an entire share, and now many of the shares were held by several ; because, only a few had ownership large enough to entitle them to a whole share.

The Fish Lot division was the most important laid out on the island and soon became densely populated. It began at a point on the hill back of the Masonic building, on the corner of Union and Main streets, at about where is the house of Mrs. Mary Hussey, and extended west fifty rods which brought the line to the junction of Main street and Rays court. It was bounded east by Quaaty or Wesco bank ; west by Rays court and Pine street, and southerly by a line from Pine to Union street, drawn east and west along the south end of Fair street.

The original layout provided for Fair street and a way along the edge of the bank, but two years later this road was changed to the location of an old way and called Orange street. Main and Pine streets were probably in use. Fair street was nearly in the middle of the division.

The shares extended from Fair street east and west and were not like the Wesco acre yard-stick lots, but averaged 116 feet in width north and south.

As soon as this division was made there were many

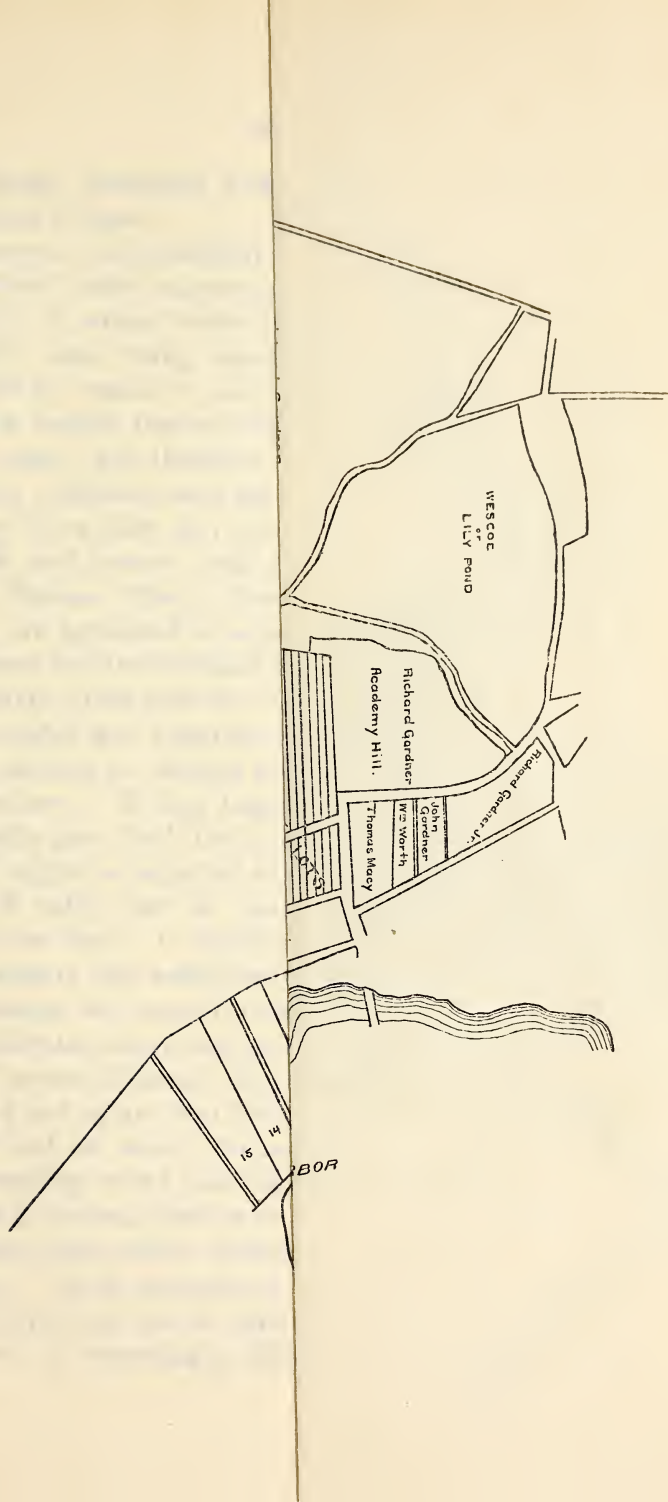
deeds relating to this section and it must have been rapidly settled. But no houses are mentioned except Solomon Gardner's, before 1717, and this must have been near the location of the house of Mrs. Mary Hussey, back of the Masonic Building.

Although the bounds of this division have long ago disappeared, yet the angle in Fair street furnishes a guide for plotting the entire tract. By this it is evident that Plumb lane was at the angle and in share 7, while Martin's lane extended along the north edge of share 6.

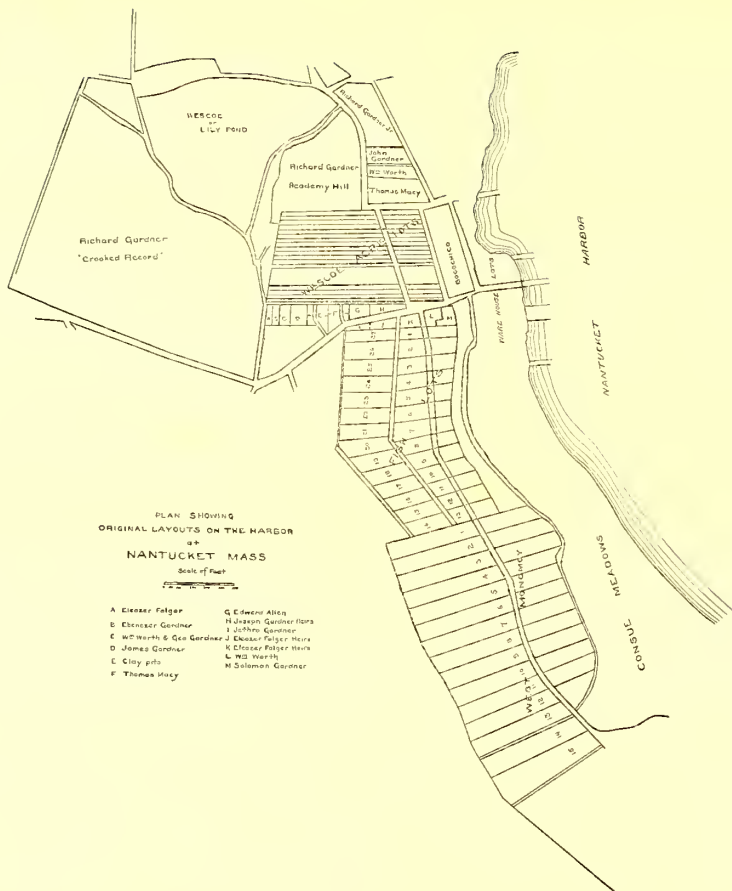
The Fish Lot division did not touch Main street, as will appear by reference to the plans, except at Ray's court.

The accompanying schedule will show the owners and shares in these two and the Monomoy divisions.

OWNERS OF SHIMMO, FISH LOTS, WEST AND SOUTH MONOMOY.				
	Shimmo.	Fish Lots.	West Monomoy.	South Monomoy.
Stephen Coffin and son Stephen	2	1	1	26
Sarah Gardner	27	2	2	25
Edward Coffin and Bethia Gardner	4	3	3	24
James Coffin	19	4	5	22
Jethro Coffin and Stephen Coffin, Jr.	18	5	4	23
Nathaniel Starbuck and Colemans	5	6	6	3
Peter and Samuel Coffin	14	7	7	4
James, Ebenezer Gardner and brethren	9	8	8	5
Nathaniel Barnard	13	9	9	6
Jethro Starbuck and George Gardner	15	10	10	7
John Swain and Samuel Gardner	1	11	11	21
Nathaniel Starbuck	26	12	12	20
Ebenezer and Peter Coffin and William Worth	22	13	13	19
Eleazer Folger and brethren	6	14	14	15
William Vaughn	12	15	15	14
Joseph and Benjamin Swain and Robert Long	20	16	16	9
James Coffin, Jr.	25	17	17	10
The Bunkers $\frac{3}{4}$, Proprietary $\frac{1}{4}$	10	18	18	1
Thomas Macy	11	19	19	2
Ebenezer Gardner and Jemima Coffin	8	20	20	11
James Coffin, Jr., Edmund Allen and Macies	21	21	21	12
Nathaniel Coffin and William Worth	24	22	22	13
William Worth, Richard Gardner and Stephen Coffin	16	23	23	8
George Gardner	23	24	24	16
Stephen Hussey	17	25	25	18
Richard Pinkham and Nathaniel Barnard	7	26	26	17
Richard Gardner	3	27	27	27



OWNERS OF SHIMMO, FISH LOTS, WEST AND SOUTH MONOMOY.				Shimmo.	Fish Lots.	West Monomoy.	South Monomoy.
Stephen Coffin and son Stephen	2	1	1	26			
Sarah Gardner	27	2	2	25			
Edward Coffin and Bethia Gardner	4	3	3	24			
James Coffin	19	4	5	22			
Jethro Coffin and Stephen Coffin, Jr.	18	5	4	23			
Nathaniel Starbuck and Colemans	5	6	6	3			
Peter and Samuel Coffin	14	7	7	4			
James, Ebenezer Gardner and brethren	9	8	8	5			
Nathaniel Barnard	13	9	9	6			
Jethro Starbuck and George Gardner	15	10	10	7			
John Swain and Samuel Gardner	1	11	11	21			
Nathaniel Starbuck	26	12	12	20			
Ebenezer and Peter Coffin and William Worth	22	13	13	19			
Eleazer Folger and brethren	6	14	14	15			
William Vaughn	12	15	15	14			
Joseph and Benjamin Swain and Robert Long	20	16	16	9			
James Coffin, Jr.	25	17	17	10			
The Bunkers $\frac{3}{4}$, Proprietary $\frac{1}{4}$	10	18	18	1			
Thomas Macy	11	19	19	2			
Ebenezer Gardner and Jemima Coffin	8	20	20	11			
James Coffin, Jr., Edmund Allen and Macies	21	21	21	12			
Nathaniel Coffin and William Worth	24	22	22	13			
William Worth, Richard Gardner and Stephen Coffin	16	23	23	8			
George Gardner	23	24	24	16			
Stephen Hussey	17	25	25	18			
Richard Pinkham and Nathaniel Barnard	7	26	26	17			
Richard Gardner	3	27	27	27			



A curious procedure took place in December 1722. The record is thus :

“Whereas the freeholders of Nantucket have for some time labored under inconveniences with respect to the irregularity of certain tracts of land called house lots and dividends, some being interlapped, many unintelligible and some by reason of mistakes, others that the former butts and bounds thereof are lost and many grievances thence ensue ; it is therefore ordered to redress the same that every proprietor may lay down every particular tract and may have their just proportions according to their just right and interest, and Nathaniel Starbuck, Eleazer Folger, Thomas Macy, Batchelor Hussey and George Hussey, are appointed to survey and measure the contents of ye house lots and dividend lands.”

If in sixty years after the house lots had been laid out all this trouble was experienced with the descriptions, we may be excused for finding the same difficulties near two centuries later. So they began again, and every Proprietor verbally gave back the land which had been set off to him. It might be regarded as a very loose performance if attempted today, but no questions seem to have been raised at the time. It required a dozen pages to record the surrenders and subsequent layouts and they had all-day meetings for several consecutive days until all the the troublesome errors had been corrected. In every case the new layouts followed this formula :

“Voted and agreed that George Gardner shall have the tract of land on which his house stands, containing 21 acres according to the plat thereof as it is laid out, (errors excepted in course, distance or area.)”

Of these plans which numbered ninety, only two are in existence. So for purposes of investigation, the approximate locality only can be determined by subsequent conveyances, an exceedingly difficult undertaking, because

exact surveying did not begin with this new start, but the same methods continued as before.

After the Fish Lots had been assigned there remained two intermediate sections to be allotted, one the triangular tract bounded by Liberty, Main and Gardner streets, and the other along the south side of Main street and next to the Fish Lots. On the lot once occupied by the Hicksite Friends Meeting House, now the residence of Wm. T. Swain, in 1722 was the blacksmith shop of Jethro Gardner. At the east end of this lot which is the west end of the John W. Barrett homestead, the Fish Lots were distant from Main street forty-one feet; at Fair street 66 feet; at Orange street 76 feet; and at a point 124 feet east of Orange, this division was 83 feet south of Main street. The strip between was assigned, the part east of Orange street to the heirs of William Worth; and the part west to Jethro Gardner's lot to the heirs of Eleazer Folger.

The other section was assigned as follows: beginning at the Pacific bank corner and proceeding west. The heirs of Joseph Gardner received a lot measuring 266 feet on Main and Liberty streets from the corner. Next lot was Edward Allen's, which was 110 feet on both streets; then Richard Gardner's lot had a frontage of 70 feet; and next west, Thomas Macy had 160 feet on each street and was practically the section between Winter street and Walnut lane.

Then the Clay Pits included Winter street and about 50 feet west.

At Winter street the distance between Main and Liberty was so great that west of this point the lots extended only half way to the other street. On Liberty west of Winter was the lot of James Gardner with frontage of 120 feet including the two Wilbur houses. The next 60 feet was assigned to Wm. Worth and George Gardner. Then 58 feet next west was laid out to Ebenezer Gardner. The remain-

ing space up to and including Gardner street was allotted to Eleazer Folger. On Main street west of Winter was one acre which was set off to Jabez Bunker.

In 1726 the Proprietors divided two more sections called West and South Monomoy. The latter is now largely meadow land and was probably such from the beginning. The Cathcart Farm at Monomoy was in this division. It comprised a strip along the harbor above the marsh nearly a mile east and west and extended south to the Podpis Road.

Its east line was the east line of the Cathcart farm. No streets were included in the layout.

West Monomoy, next to Fish Lots, was the most thickly inhabited part of the town. It was bounded north by the Fish Lots, south by the line extending from the Creeks to Hummock Pond, approximately at the first mile stone. East by the Consue Meadows and the Creeks, and its west line Pleasant street. As the junction of Union and Orange streets is clearly defined on the plan the entire division can be laid down. Union, Orange, and Pleasant streets are delineated. As soon as this division was confirmed, its north section was rapidly settled, and it now contains houses that were erected soon after 1726, but none of an earlier date.

About the time that houses at Cappaum were moved to Wescoe, the whaling industry had become firmly established, and as Nantucket was sending out whaling vessels it naturally became a trading port. Oil was brought home and reshipped to the coast cities along the Atlantic, and in return came merchandise of all sorts. At once the shore along the west end of the harbor was valuable for warehouses. In 1716 the Straight wharft was built and land on each side of Main street east of Union was laid out in 1723 as warehouse lots. Their value may be inferred from the fact that they were only 16 by 40 feet. These

warehouse lots extended from Pearl to Main street and about the same distance south. They were immediately occupied by buildings for mercantile purposes.

In 1744 the beach east of Federal street was hilly and uneven and a creek extended into Pearl street. An order was passed by the Proprietors that the tract should be leveled and laid out. It was bounded by Main, Federal, Broad and Water streets, and was named Bococho.

It is not the purpose of this work to describe further divisions. Those outside of the town limits are delineated on the maps of Dr. Ewer. Some of them included over 2000 acres. Those made before 1800, owing to imperfect surveys, cannot be accurately identified. Attention has been called to the fact that before 1800, when divisions were made, each owner had his portion of the same and still retained his interest in the common and undivided lands outside. About 1815, after a bitter lawsuit, a new method was permitted by the Supreme Court. Under that decision, if a man owned 100 sheep commons he could compel the Proprietors to set off to him his entire interest in one place, and by that process he ceased to have any more interest in the remaining common land, and his sheep commons were cancelled. It was called "paying" 100 sheep commons for the land. As a result of this lawsuit Richard Mitchell and ten associates had set off to them Plainfield, the 2100 acres between Siasconset and Sesachacha Pond and extending from the ocean west between one and two miles. These persons owned 2268 sheep commons which were cancelled on the Proprietors books and they had no longer any interest in the common and undivided lands. In this way Coatie, Surfside, and a great number of smaller parcels were set off to individuals, and the sheep commons have become reduced from 19,440 to less than 1000. The commons and undivided land now controlled and managed by the Proprietary is very

difficult to find. If one were to mark on a sheet of paper as many half dollars as possible and then cut out the circles, what would remain would represent the remaining common land. An attempt has been made to exercise some control over the Great Ponds on the ground that this control vested in the Proprietary before Nantucket become a part of Massachusetts and that therefore the Massachusetts law concerning the Great Ponds and the rights of the public therein, does not apply to Nantucket. Recently Myacomet Pond was set off to an individual to develop as a private fishery. The Supreme Court would probably hold that the Pond was public and could not become private except by an act of the Legislature.

Much complaint is heard about the obscure titles on Nantucket. The Legislature seemed to recognize this when the town was authorized to condemn for park purposes as much of Muskeget as was "not held by a clear title." If this phrase means anything it is that the owners of the land cannot be ascertained. If a map of Nantucket were made and all fenced areas delineated it would be discovered that the inclosed locations comprise a very small proportion of the island. Thousands of acres were never inclosed and probably never will be. They have practically been abandoned, and as no bounds of the layouts have been preserved it is impossible to ascertain who owns any particular tract. The difficulty with the titles, and it is serious, consists solely in the fact that the land was not worth inclosing and improving. Such a situation was admirably adapted to sheep raising. As long as there were thousands of sheep to roam over the moors of Nantucket, it was more profitable that the land should remain in this condition of uncertainty. But when sheep raising closed and it was proposed to improve the land, then came perplexity in securing a title. Then ignorant and unskilful persons have always been ready to advise in difficult cases

of conveyancing and have added much confusion to the complicated condition. Shimmo has been mentioned as an illustration. Here the bounds of the division being a pond, unnamed and unidentified, have been lost beyond recovery. In 1717 it was owned by sixty persons. Because the land was without value, no person ever took the trouble to gather together the interests in one name. Then the descendants of these owners emigrated to every section of the world and the owners are now myriad and unascertainable. These divisions comprise nine-tenths of the island. The Proprietors designated the land in divisions as "dividend land" to distinguish it from the common and undivided lands.

CHAPTER X.

Nantucket Land Speculations.

It has been said that the shore line of Nantucket is 87 miles in length, and along the entire line is a sand beach. The line of the Harbor alone is 21 miles long. Of the entire shore very few sections have not been the locus of some land speculation. Whenever Nantucket has had a good season and men have been exploring the island for seaside lots, then some keen real estate exploiter has sought to develop some part of the island and place it on a possible market. These projects have been confined to the space within a half mile limit of the shore. Tucker-nuck and Muskeget, not being within regular communication with Nantucket, have not been the object of such moves.

The residential part of Nantucket has been subject to periodical fluctuations. Its high water mark in population was reached not far from 1830. Speculation in land was then unknown. But about that time many persons erected the houses at Siasconset that for years were its pride. They extended along the main street. The houses nearer the bank were of earlier construction and were mostly occupied by men who were engaged in cod fishing.

But for many years later there were no houses south of the Gully or north of the Plainfield line, which is the south line of Flagg's land. Siasconset in 1870 was about what it had been for half a century before.

The movements in relation to real estate which are defined as speculative did not commence until summer visi-

tors began to visit the island. Previous to 1870 seaside resorts in New England were not common. About this time wealthy families in the middle and southern parts of the country started the custom of spending the summer months on the New England shore. At Nantucket there were two hotels and some boarding houses, one of which was at Siasconset. Three sail boats moored at the steamboat wharf were ready to pilot a coaster or accommodate a fishing party. In 1872 a new hotel was built and two new sail boats were added. Then commenced the modern "summer visitor" business with all its attending consequences and among them many land ventures.

This method of creating a demand and supply for lots, seemed to consist in procuring a section of land on the shores extensive enough for the purpose and then having it surveyed and a plan made showing division into house lots and embellished in many ways known only to the city real estate broker. Then skilful advertising was resorted to for the purpose of inducing persons to purchase the lots. None of these moves at Nantucket passed beyond the preliminary stages of development. No houses, pavilions, streets or landings were built except in one case, a railroad and a hotel. The principal of these exploits will be described. The first was started in 1873 and called the Nantucket Bluffs at north shore. At the same time Dr. F. A. Ellis and Charles H. Robinson bought the tract at Siasconset, south of the Gully. These transactions were successful, and although not extensive in area, were popular, and the land was quickly sold and improved by buildings. One success leads others to the same undertaking. Two dismal failures followed: S. B. Tourtelotte of Worcester, purchased a large tract at Maddaket, had it surveyed and platted into 2000 lots and placed on the market. Unusually large and beautiful maps were circulated showing drives, parks, and other attractions at

locations known to the natives as swamps. Few lots were sold ; no houses built and for many years this section has been dormant.

The movements of the Surfside Land Company were the most extensive ever enacted on Nantucket, starting with a section of land a mile wide and three miles long, between Weeamdu Pond and Tom Nevers Head, it performed every move characteristic of a land scheme. Surveys were made and many plans drawn by civil engineers of note and the land was bonded for \$200,000. In 1881 only a few lots had been sold and the affair was boomed further by a hotel and a railroad. The Coffin reunion was by a coincidence a contemporary event and the first locomotive was named Dionis. The hotel was open for a few seasons, but has now dropped to the ground. The railroad no longer runs to Surfside. Money has been expended by the thousands. A few houses were once to be seen, and today the seagull flying across the entire expanse can discover no other trace of man than the ruins of a few buildings. The Surfside land scheme is as dead as Madaket.

In 1874 Lete and Wooding of New Haven, Connecticut, bought a tract at Quaise from which a view of the harbor was had, although some distance from the shore. It was divided into 500 lots, sold for taxes and now held by Allen Coffin. No buildings were ever erected.

W. & J. A. Veazie of Boston in 1875, purchased some land at South Shore between Hummock and Long Ponds, called it "Nauticon" and Smooth Hummocks, divided it into 1700 lots, sold a few, but no improvements were ever made.

The success of Capt. Charles Moores and others at the Cliff, led others to venture further west. In 1876 Henry Coffin and others opened Shurburn Bluffs in which the O'Connor House stands. These 28 lots have been im-

proved. Still further west, near the Hinckley farm, was a tract of 240 lots called Wannacomet Bluffs, which have neither been sold nor improved.

Land was quiet at Nantucket for several years until in 1880 the Island had a prosperous season, and several small tracts were developed, notably among them were Brant Point owned by E. H. Alley, Charles C. Moores, Henry Coleman, and on the hill Clifton Springs by Alfred Swain and Charles H. Robinson. Being near the town these sections were built upon at once.

Then followed each year speculations in small tracts :

- 1882. Wauwinnet.
- 1883. Flagg's lots, Siasconset.
- 1883. Coatue Land Co., near Wauwinnet, now on an island.
- 1884. Thomas Gray and Round, south of Siasconset.
- 1885. Sankaty Heights.
- 1886. Swift lot, Brant Point.
- 1886. Sassachacha.
- 1886. Lincoln Heights at Cliff.
- 1887. Aurora Heights, Siasconset.
- 1888. Dionis City, west of Capaum Pond.
- 1889. Monomoy Heights.
- 1895. Low Beach, south of Siasconset.

1901. Miacomet Park. This shows the latest land scheme development. A New Bedford man, desiring to sell tea, arranged a new plan. He purchased 80 acres on east side of Miacamet Pond, had it surveyed and divided into 2300 lots and then advertised to give away a lot with every pound of tea, providing the purchaser would pay \$2.00 for the deed. Forty deeds have been recorded at Nantucket.

In general, the land ventures near the town have been successful, and also those between Wauwinnet and Low Beach. Those along the south side of the harbor on Coatue, Surfside, Hummock Pond and Madaket have been failures.

